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10/743,183

12/22/2003

Andrea Ruston

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11/07/2005

Michael I. Kroll
171 Stillwell Lane
Syosset, NY 11791

EXAMINER

MADSEN, ROBERT A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/743,183

Applicant(s)

RUSTON, ANDREA

Examiner

Robert Madsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/22/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 1-4 and 10-14 in the reply filed on August 6, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-4 and 10-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

4. Claim 1 recites a bag defined by front and rear opposing surfaces, top and bottom ends, first and second opposing sides wherein the bag is substantially rectangular. The recited structure of claim 1 implies that the bag has 4 panels (i.e. front surface, rear surface, first side, second side, wherein the bag is substantially rectangular) between the top and bottom, and such a structure is not described in the specification. For example, the specification, in explaining Figure 4, describes a "front

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side". It is not clear how this differs from a front surface and two opposing sides. Additionally, the drawings appear to depict two panels (i.e. front and rear panels) between the top and bottom with the front and rear exterior surfaces, wherein each panel appears to have a the recited "sides" (e.g. right and left side) relative to the vertical center of the panel that connects the top and bottom ends . For examination purposes, the Examiner understands "sides" in the claims to be located on the same surface relative to the vertical center of the surface (i.e. Figure 7 shows items 42 on the rear surface and on either side of the rear surface).

5. Claim 2 recites the first and second sides are different lengths. The specification does not describe a first side and opposing second side of different lengths with loops being located in both the top rear corner of the first side and the top rear corner of the second side. The specification describes different length sides are shown in Figure 4 via item 28, but the specification does not describe a loop in the loops being located in both the top rear corner of the first side and the top rear corner of the second side. For examination purposes, the recited "sides" will be understood to be front and rear panels of the bag.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-4,10-14 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the opposing

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sides and the front and rear surfaces of the bag. With respect to claims 1 and 2 in particular, see the rejection under 35 U.S.C. 112, first paragraph above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klar (US 20040071830) in view of Loeschner et al. (DE003826911A1).

10. Klar teaches a compressible infusion bag comprising front and rear surfaces, top and bottom ends, the top rear surface comprising a pair of apertures and loops disposed on the rear panel corners (e.g. items 4,5,12 and 13 in Figure 6). Klar further teaches a third aperture on the front of the bag intermediate the first and second sides (e.g. item 8 in Figure 6). The third aperture is provided as a guide for a string to go around from front to rear surfaces. Klar further teaches a string with first and second ends (e.g. 17/18 of Figure 8) passing through passing through the apertures and through the loops, the top rear panel is folded toward the front, and the rear panel is longer than the front panel, as recited in claims 1 and 2 (See Figure 6, paragraph 18-22). Klar is silent in teach a third loop as recited in claim 1.

loop (e.g. item 30) on the front of the bag to the rear of the bag to assist in compression (Note the English Abstracts in light of the Figures).

12. Therefore it would have been obvious to modify Klar and include a third loop in place of the hole, depending on the particular infusion material used since a hole located in the front of the bag as taught by Klar may result in a loss of material through the hole and providing a loop, as taught by Loeschner, would overcome this possibility. Furthermore, one would have been substituting one type of string guide for another for the same purpose: compressing a fusion bag.

13. Claims 3,4,10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klar (US 20040071830) in view of Loeschner et al. (DE003826911A1) as applied to claims 1 and 2 above, further in view of Orchard (US 2491929).

14. Klar is silent in teaching any reinforcement on the front and rear of the bag that is sewn into the bag, wherein on the corners of the front and rear tops so that the loops and apertures are disposed on a reinforced section, and the third loop is disposed on a reinforced section, as recited in claims 3,4,10-12.

15. Orchard teaches providing bags having apertures wherein a string passes through the apertures wherein the string is grasped by the handler. Orchard teaches providing reinforcement that is sewn into the bag at the top rear surface that covers an aperture on the rear surface of a bag and providing reinforcement on the corresponding front surface around the aperture so that the bag can handle the load of material placed

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in the bags and the bag does not tear at the apertures when held by the string. (Column 1, lines 1-37, Column 2, lines 30-Column 3, line 37).

16. Therefore, it would have been obvious to provide reinforcement on the front and rear of the bag that is sewn into the bag and on the corners of the front and rear tops of a bag so that loops and apertures are disposed on a reinforced section, as recited in claims 3,4,10 and 12, since Klar teaches loops disposed on apertures on the corners of the front and rear tops of the bag and Orchard teaches providing reinforcement that is sewn into the bag at the top rear surface that covers an aperture on the rear surface and providing reinforcement on the corresponding front surface around the aperture for the benefit of preventing the bag from tearing at the apertures held by the string. It would have been obvious to further modify Klar such that the third loop is disposed on a reinforced section as recited in claim 11 since this section would also be under stress when the string is pulled and Orchard teaches providing reinforced sections around areas that the strings is pulled through and may tear the bag if there is too much of a load in the bag.

17. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klar (US 20040071830) in view of Loeschner et al. (DE003826911A1), further in view of Orchard (US 2491929) as applied to claims 3,4,10-12, further in view of Drake et al. (US 5322700)

18. Regarding claim 13, Klar teaches the rear surfaces is folded over to the front and center of the bag to close the mouth of the bag when the string is pulled, but is silent in

teaching the corners of the bag are adapted to be folded along a first fold line downwardly and to the front and center of the bag to close the mouth of the bag so that the corners are adjacent when the string is pulled and the rear portion is adapted to be folded along a second fold line downwardly to the front of the bag so the folded first and second corners close the mouth of the bag.

19. Drake et al. also teach infusion bags. Drake et al. teach that in order to prevent loss of material from the top of the bag the top corners should first be folded about a first fold line down to the front of the bag so that corners are adjacent to one another (e.g. as shown in Figure 3, Column 1, line 50 to Column 2, line 60). The bag is further adaptable to fold along a second fold line where the corners of the rear surface meet the front surface since the corners would provide a reinforced edge for the rear of the bag to fold further (See figures 3 and 4B). Therefore it would have been obvious to further modify Klar and provide corners of the bag adapted to be folded along a first fold line downwardly and to the front and center of the bag to close the mouth of the bag when the string is pulled since Drake et al. teach this will assure that no infusible material is lost from the top of the bag. It would have been further obvious that the rear portion is adapted to be folded along a second fold line downwardly to the front of the bag since Drake et al. teach such would include another area adaptable to folding (e.g. the area where the corners are adjacent in Figure 4B) by providing a reinforced edge formed by the adjacent corners of the rear sheet so rear of the bag could fold further about the corners.

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20. Regarding claim 14, modified Karl includes a string is to encircle the bag from the top apertures down the front surface through a guide, or loop, at the bottom of the bag and around the rear surface up to the apertures. Klar is silent in teaching the third loop is disposed 1/3 the distance from the top to the bottom of the bag. However, to provide the loop in any particular location along on the front surface would have been obvious depending on how one desired to compress the bag since a loop at the 1/3 point would force the bag to compress in a different manner than if the loop were at the bottom of the bag.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

22. Aoki (JP 202211642) teaches closing an infuser bag via a string attached at two corners such that the corners fold.

23. Shaw (US 2466281) teaches an infuser bag that is closed folded and includes a string through the rear and front surfaces.

24. Lohrey et al. (US 6746699 B2) and Teepack (DE 29613448 U1) teach infuser bags closed via string going through two apertures in the front and rear surfaces.

25. Tagliaferri et al. (US 5797243) teaches utilizing loops to secure a string for an infuser bag.

26. Klar (US 2001007688A1) teaches an infuser bag that is pulled closed and compressed via string going through two apertures in the front and rear surfaces.

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27. Van Der Zon (US 5366741) teaches pulling strings on infuser bags for compressing the bags.

28. Marcello (EP 0260229 A2), Ament (US 1690046), Maxfield (US 1182580), Stanley (US 952375) , and Hernhuter (US 1157388) teach bags that are pulled closed via strings/cords passing through two apertures in the rear surface.


29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 8:00AM-4:30PM M-F.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert Madsen
Examiner
Art Unit 1761

RAM


MILTON I. CANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700